

**REMARKS**

**I. Status**

The Office Action indicates claims 1-68 to be pending in this Application. With this response, claims 1, 24, 26, 27, 35, 58, 60, and 61 are amended. No new matter has been added.

Claims 15-34 and 49-68 are provisionally rejected under 35 U.S.C. 101.

Claims 1-10, 13-26, 29, 31-44, 47-60, 63, and 65-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Bommareddy (U.S. Patent No. 6,779,039).

Claims 11, 12, 30, 45, 46, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommareddy in view of Schuetze (U.S. Patent Application Publication No. 2003/0110181).

Claims 27, 28, 61, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommareddy in view of Garcia-Luna-Aceves (U.S. Patent Application Publication No. 2002/0129086).

Claims 1, 15, 24, 35, 49, and 58 are independent.

**II. Provisional Rejection of Claims 15-34 and 49-68 under 35 U.S.C. 101**

The Office Action provisionally rejects claims 15-34 and 49-68 under 35 U.S.C. 101, the Office Action stating that:

“[c]laims 15-34 and 49-68 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 15-34 and 49-68 of copending Application No. 10/674679. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented” (see Office Action p. 2; emphasis in original).

Noting the rejection to be provisional, Applicants do not further address the

rejection at this time.

### **III. Amendment of Independent Claims 1, 24, 35, and 58**

With this response Applicants amend claims 1, 24, 35, and 58. No new matter has been added.

Applicants respectfully submit that the cited references, taken individually or in combination, fail, for example, to disclose, teach, or suggest:

“... performing, at a first node, with respect to one or more first clusters in said network environment, one or more traffic measurements, wherein the first node is a member of said one or more first clusters;

receiving, at the first node from one or more second nodes that are members of one or more second clusters in said network environment, one or more traffic measurements performed by the one or more second nodes with respect to the one or more second clusters;

determining, at the first node in accordance with the one or more traffic measurements performed at the first node and the one or more traffic measurements performed by the one or more second nodes, one or more reclustering operations to be performed in said network environment; and

dispatching, from the first node, data to realize said reclustering”

as set forth in each of claims 1 and 35 as amended herewith (emphasis added).

The Office Action apparently contends that Bommareddy teaches the router clustering system of Bommareddy performing and receiving traffic measurements by discussing detection of “(1) failure of the router LAN interface and link, (2) failure of the router due to power outage, software malfunction, hardware malfunction, or other condition, and (3) failure of the router WAN interface and link” (see Bommareddy col. 3 ln. 23-26).

However, Applicants respectfully submit that even if Bommareddy is, for the sake of argument, taken to so teach, Bommareddy would still fail, for instance, to disclose, teach, or suggest the above-identified of claims 1 and 35 as amended herewith.

As another example, the cited references, taken individually or in combination, fail to disclose, teach, or suggest:

“... receiving data at a node in said network environment, wherein said node is a member of a cluster in said network environment ...”

as set forth in each of claims 24 and 58 as amended herewith (emphasis added).

The Office Action, apparently equating the servers of Bommareddy with the node of claims 24 and 58 and the router cluster of Bommareddy with the cluster of claims 24 and 58, apparently contends that Bommareddy teaches the servers of Bommareddy to be associated with the router cluster of Bommareddy by teaching the servers to send data to the router cluster.

However, Applicants respectfully submit that even if, for the sake of argument, such equations are taken to be valid and Bommareddy is taken to so teach, such would still not at all be, for instance, disclosure, teaching, or suggestion that the servers of Bommareddy are members of any cluster.

In view of at least the foregoing, Applicants respectfully submit that claims 1, 24, 35, and 58, at least as amended herewith, as well as those claims that depend therefrom, are in condition for allowance.

#### **IV. Rejection of Independent Claims 15 and 49 under 35 U.S.C. 102**

The Office Action rejects claims 15 and 49 under 35 U.S.C. 102(e) as being anticipated by Bommareddy. However, Applicants respectfully submit that Bommareddy fails, for example, to disclose, teach, or suggest:

“... receiving a request from a node to change affiliation with said network environment ...”

as set forth in each of claims 15 and 49 (emphasis added).

The Office Action contends that such is taught by Bommareddy, the Office Action stating that:

“Bommareddy et al. teach in col. 3, line 52 that the router clustering system responds to an Address Resolution Protocol (ARP) request from the servers to identify a Media Access Control (MAC) address associated with the router cluster. The ‘identify’ means the MAC address is new - change”  
(see Office Action p. 12).

However, Applicants respectfully submit that even if a new MAC address is, for the sake of argument, taken to be a change in affiliation with a network environment, Bommareddy’s discussion of an “Address Resolution Protocol (ARP) request from the servers to identify a Media Access Control (MAC) address associated with the router cluster” (see Bommareddy col. 3 ln. 50-53; emphasis added) would still fail, for instance, to disclose, teach, or suggest a new MAC address, and instead merely refers to the servers learning of the MAC address associated with an IP address of the router cluster.

Applicants believe it clear, for instance, that mere discussion that servers learn of a MAC address is not at all disclosure, teaching, or suggestion that a MAC address is new. Moreover, Applicants believe it clear, for instance, that mere employment of Address Resolution Protocol to learn a MAC address associated with an IP address does not provide for the “reclustering” set forth in each of claims 15 and 49.

As another example, Bommareddy fails to disclose, teach, or suggest:

“... determining if the affiliation change would result in an integer-squared number of nodes being affiliated with said environment; and

dispatching data to realize reclustering in said environment in the case where said determining yields an affirmative result”

as set forth in each of claims 15 and 49 (emphasis added).

The Office Action, apparently equating “allowing specific hardware to easily migrate from one cluster to another” of Bommareddy with “dispatching data to realize reclustering” of claims 15 and 49, contends that such is taught among column 4 lines 54-56 of Bommareddy.

However, Applicants respectfully observe that even if such equation is taken to be valid for the sake of argument, Bommareddy would still fail, for instance, to disclose, teach, or suggest allowing specific hardware to easily migrate from one cluster to another in the case where an affiliation change results in an integer-squared number of nodes being affiliated, and instead merely discusses that:

“[t]he clustering system controls connections of clients to particular servers, reducing the computing required to manage the cluster on servers in the cluster and freeing computing power to be applied to the task of the cluster.

The clustering system can manage many different clusters simultaneously, allowing specific hardware to easily migrate from one cluster to another, as demand patterns dictate” (see Bommareddy col. 4 ln. 50-56; emphasis added).

In view of at least the foregoing, Applicants respectfully submit that claims 15 and 49, as well as those claims that depend therefrom, are in condition for allowance.

## V. Dependent Claim Rejections

Applicants do not believe it is necessary at this time to further address the rejections of the dependent claims as Applicants believe that the foregoing places the independent claims in condition for allowance. Applicants, however, reserve the right to further

address those rejections in the future should such a response be deemed necessary and appropriate.

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**CONCLUSION**

Applicants respectfully submit that this Application is in condition for allowance for which action is earnestly solicited.

If a telephone conference would facilitate prosecution of this Application in any way, the Examiner is invited to contact the undersigned at the number provided.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any fees which may be required for this response, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4208-4152US1.

Furthermore, in the event that an extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-noted Deposit Account and Order No.

Respectfully submitted,

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